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ABSTRACT

This report discusses the outcomes of a survey that investigated data collection efforts of state special education dispute resolution contacts in all 50 states. Results indicate that all states maintain some level (directly or through contractual arrangements) of basic information on the number and location of formal complaints, mediations, and due process procedures, as well as the types of issues involved. Fewer states systematically gather information regarding satisfaction and/or follow-up. Information on the impact of alternative dispute resolution procedures (i.e., formal complaint resolution, mediation, and/or due process procedures) is currently maintained by fewer than 10 states. (CR)

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PROJECT FORUM

NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, INC.

QUICK TURN AROUND

QTA - A BRIEF ANALYSIS OF A CRITICAL ISSUE IN SPECIAL EDUCATION

ISSUE: DISPUTE RESOLUTION ACTIVITIES – STATE DATA COLLECTION

JULY 1999

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Quick Turn Around

Project Forum

QTA - a brief analysis of a critical issue in special education

Issue: Dispute Resolution Activities-State Data Collection Date: July 1999

Background

Since 1975, the formal mechanisms established within the *Individuals With Disabilities Education Act (IDEA)* to resolve disputes between parents of children with disabilities and schools have been state complaint resolution systems and due process procedures. However, a note at the end of the due process hearing section of the 1993 regulations "...pointed to the success of using mediation as an intervening step prior to conducting a formal due process hearing." [§300.506]. When Congress added formal mediation as an option within the *IDEA Amendments of 1997*, it recognized the need for additional and less adversarial dispute resolution approaches to resolve differences between parents and agencies. Specifically, states must offer mediation at least whenever a due process hearing is requested. However, mediation may not deny or delay a parent's rights to a due process hearing.

To provide information, training, and technical assistance to states, schools, parents, and teachers on alternative dispute resolution activities, including mediation, the U.S. Department of Education's Office of Special Education Programs (OSEP) funded a national center on dispute resolution. This center, The Consortium for Appropriate Dispute Resolution in Special Education (CADRE), is located at Direction Service, in Eugene, Oregon. CADRE's core partners are the National Association of State Directors of Special Education (NASDSE), the Academy for Educational Development/National Information Center for Children and Youth with Disabilities (AED/NICHCY), the Mediation Information and Resource Center (MIRC) , the Technical Assistance Alliance for Parent Centers (The Alliance), Western Oregon University-Teaching Research and the Western Regional Resource Center (WRRC).

CADRE Survey

One of CADRE's goals is to enhance the gathering and consistency of meaningful and accurate information regarding the use and effectiveness of dispute resolution strategies within and across the states. As a first step toward accomplishing this goal, NASDSE, in partnership with CADRE, conducted an email screening survey of data collection efforts across the country. This took place February through April 1999.

The screening survey was sent to *state dispute resolution contacts*, designated by state directors of special education, and requested information on the types of dispute resolution data gathered and retained within the state education agencies (SEAs) directly or through contractual arrangements. This included data on complaints resolution, mediation, and due process hearings. Information was received from all 50 states.

As a follow-up to the screening survey, an in-depth examination of approximately ten states

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will be conducted by CADRE prior to October 1999 to obtain a greater understanding of data collection activities within the states and the effectiveness of various dispute resolution practices.[1]

Project FORUM's Role

To support CADRE's goal of enhancing data collection efforts in the area of dispute resolution and inform stakeholders of the current efforts in this area, Project FORUM at NASDSE prepared this brief analysis of the CADRE survey to disseminate to the field. Preparation of this document and its dissemination is part of Project FORUM's Cooperative Agreement with OSEP.

Survey Results

Formal Complaints

Forty-eight of the 50 responding SEAs collect information regarding the numbers and locations of formal complaints made to the SEA. All but eight (n=42) collect data regarding the type of issue(s) contained in the formal complaint. Thirty-five states gather information regarding complaint resolution activities carried out by the SEA. Thirty-one states gather information regarding follow-up activities that occur within school systems as a result of formal complaint resolution by the SEA. Fewer SEAs (n=9) reported that they collect information regarding the impact of complaint resolution (e.g., data regarding whether the concern was resolved or whether it recurred again in a subsequent formal complaint, mediation, or due process hearing request).

Mediation Procedures

Nearly all of the responding SEAs (n=48) reported that they collect information regarding the numbers and locations of mediation requests received, and 37 states collect information regarding the type of issue(s) contained in the mediation request. Only three of the 50 states do not maintain information regarding the numbers and locations of mediations completed. Twenty-seven states retain information about the types and nature of mediation agreements.

Of the 50 responding SEAs, 29 gather information regarding satisfaction from the parent and/or the school personnel concerning their mediation experience. This feedback is obtained either informally by a questionnaire at the conclusion of mediation or through random contacts following mediation. A few states (n=6) gather information regarding follow-up activities to implement the mediation agreement. Seven states retain information regarding the impact of the mediation agreement after it has been carried out (e.g., data regarding whether the original dispute concern was resolved).

Due Process

Forty-seven of the 50 responding SEAs gather data on the numbers and locations of due process hearing requests to the SEA. All but seven states (n=43) retain information regarding the type of issue(s) contained in the due process hearing requests. Forty-eight SEA respondents reported that data is maintained regarding the numbers and locations of due process hearings completed, and 47 states retain information about the hearing officer's decision.

[1] For more information about CADRE, visit their web site: www.directionservice.org/cadre or contact the Project Director, Marshall Peter, at mpeter@directionservice.org or 541-686-5060.

Some SEAs (n=47) collect information regarding follow-up activities that have occurred within school systems as a result of the due process hearing officer's decision.

Satisfaction information from the parent and/or the school personnel regarding the due process hearing experience is systematically gathered by only six SEAs. In addition, only four SEAs reported collecting information regarding the impact of the due process decision.

The survey results discussed above are summarized in Table 1.

Other Dispute Resolution Activities

The SEAs provided information about other types of alternative dispute resolution activities being carried out in their states in an effort to resolve disagreements in a more informal manner and/or as early as possible. For example, Montana has implemented an early assistance program that provides informal mediation for resolving issues prior to filing a formal complaint or due process request. Massachusetts maintains an advisory opinion process that will soon be implemented in Connecticut. Iowa uses a pre-appeal process. States such as Alabama, Indiana, Kentucky, and Nebraska reported the use of peer mediation.

The SEA respondents also reported a number of other alternative dispute resolution activities including conciliation or informal mediation (Minnesota and Nebraska); ombudsmen, school-level mediation, IEP meeting facilitators, and fact finding panels (Oregon); advisory rulings (Maine); cooperative teaching models to assist students developing problem solving skills to resolve differences (Alabama); and workshops for school staff and parents to learn how to resolve differences (Iowa).

California is developing a statewide dispute resolution network that will pair a district experienced with alternative dispute resolution with a district implementing for the first time. These two districts also work with the SEA. The network will provide technical assistance and support, and improve the effectiveness of dispute resolution activities. In addition, California has included a local resolution strategy within their formal state complaint resolution system, in which the district has the option of correcting their own issues prior to SEA involvement. This has resulted in quicker resolution of issues and increased satisfaction for all parties.

States reported that information regarding additional alternative dispute resolution activities, particularly those that are more informal and carried out within the schools, is gathered less systematically.

Summary

Survey data from 50 SEAs indicate that all states maintain some level (directly or through contractual arrangements) of basic information on the number and location of formal complaints, mediations, and due process procedures, as well as the type of issues involved. Fewer states systematically gather information regarding satisfaction and/or follow-up. Information on the impact of alternative dispute resolution procedures (i.e., formal complaint resolution, mediation, and/or due process procedures is) is currently maintained by fewer than 10 states.

Table 1
Type of State Data Collection by Dispute Resolution Activity (N=50)

Type of Data Collection	Number of States Collecting Information		
	Formal Complaints	Mediation	Due Process
Numbers and Locations of Requests Received by the SEA	48	48	47
Type of Issues Involved	42	37	43
Numbers and Locations of Completed Dispute Resolution Activities (i.e., complaints resolution, mediations, or due process hearings)	35	47	48
Satisfaction Information	*	29	6
Information about the SEA Complaints Resolution Findings, Mediation Agreement or Due Process Hearing Decision	*	27	47
Follow-up Activities	31	6	47
Impact of Dispute Resolution Activities	9	7	4

* Data not requested

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